



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,687	08/03/2001	Mathew B. Stanczak	DSCK-1201-C1	6645

7590 08/11/2005

Anthony M Lorusso
Lorusso , Loud & Kelly LLP
15 Rye Street
Suite 312
Portsmouth, NH 03801

EXAMINER

ABDELWAHED, ALI F

ART UNIT	PAPER NUMBER
----------	--------------

3722

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/890,687

Applicant(s)

STANCZAK ET AL.

Examiner

Ali Abdelwahed

Art Unit

3722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2005.
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 26-34 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-14 and 26-34 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Specification

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Objections

Claims 28, 29, 33, and 34 are objected to because of the following informalities:

It is suggested that in:

Claims 28 and 33, lines 2, 4, and 6, delete "set" and insert --pattern--.

Claims 29 and 34, lines 2, 4, and 8, delete "set" and insert --pattern--.

Appropriate correction is required.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Art Unit: 3722

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 2, 4, 7, 10, 11, 13, 14, and 26 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-22 of U.S. Patent No. 6,383,093 B1 to Kuttappa et al. in view of U.S. Patent No. 5,733,205 to Higuchi et al.

Kuttappa et al. discloses the claimed invention except for having a center with a compression in the range of about 60-80 PGA, an ionomer cover with an outer surface having a shore D hardness in the range of about 63-69, the center having a diameter in the range of about 1.34 to about 1.37 inches, and the cover having a thickness in the range of about 0.052 to about 0.063 inches. However, Higuchi et al. teaches a golf ball comprising the aforementioned limitations (see columns 2 and 3, lines 62-64 and 13-15, 38-40, 46-48, 59-62, respectively). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the golf ball of Kuttappa et al., in view of Higuchi et al., such that it would provide the golf ball of Kuttappa et al. with the concept of the aforementioned limitations for the purpose of enhancing the performance of the golf ball without compromising shot-making feel of the ball.

Claims 1, 3-5, 10, 11, 13, and 14 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-22

Art Unit: 3722

of U.S. Patent No. 6,383,093 B1 to Kuttappa et al. in view of U.S. Patent No. 5,807,192 to Yamagishi et al.

Kuttappa et al. discloses the claimed invention except for having a cover with an outer surface with a shore D hardness in the range of about 63-69, the core having a weight in the range of about 34.5 to 35.5 grams, and a diameter in the range of about 1.555-1.575 inches. However, Yamagishi et al. teaches a golf ball comprising the aforementioned limitation (see fig.1, and column 2, lines 25-28 and 39-40). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the golf ball of Kuttappa et al., in view of Yamagishi et al., such that it would provide the golf ball of Kuttappa et al. with the concept of the aforementioned limitation for the purpose of enhancing the performance of the golf ball without compromising shot-making feel of the ball.

Claims 6, 27, and 29 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-22 of U.S. Patent No. 6,383,093 B1 to Kuttappa et al. in view of Higuchi et al. as applied to claims 1 and 26 above, and further in view of U.S. Patent No. 4,884,814 to Sullivan.

Kuttappa et al., as modified, discloses the claimed invention except for the cover comprising a blend of a high resilience ionomer and a very low modulus ionomer being a terpolymer of ethylene, n-butyl acrylate, and methacrylic acid. However, Sullivan teaches a golf ball comprising the aforementioned limitations (see column 4, lines 4-8 and 42-45). Therefore, it would have been obvious to one having ordinary skill in the art

Art Unit: 3722

at the time the invention was made to further modify the golf ball of Kuttappa et al., as per the teachings of Sullivan, such that it would provide the golf ball of Kuttappa et al. with the concept of the aforementioned limitations for the purpose of enhancing the performance of the golf ball without compromising shot-making feel of the ball.

Claims 8, 9, 12, and 28 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-22 of U.S. Patent No. 6,383,093 B1 to Kuttappa et al. in view of Higuchi et al. as applied to claims 1 and 26 above, and further in view of U.S. Patent No. 5,018,741 to Stiefel et al.

Kuttappa et al., as modified, discloses the claimed invention except for the plurality of dimples including a first, second, and third set of dimples having a diameter in the range of 0.150-0.160, 0.140-0.150, and 0.135-0.145, respectively. However, Stiefel et al. teaches a golf ball comprising the aforementioned limitations (see fig. 6, and respective portions of the specification). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the golf ball of Kuttappa et al., as per the teachings of Stiefel et al., such that it would provide the golf ball of Kuttappa et al. with the concept of the aforementioned limitations for the purpose of enhancing the performance of the golf ball without compromising shot-making feel of the ball.

Claims 30-32, and 34 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-22 of U.S.

Art Unit: 3722

Patent No. 6,383,093 B1 to Kuttappa et al. in view of U.S. Patent No. 5,800,286 to Kakiuchi et al.

Kuttappa et al. discloses the claimed invention except for having a core with a weight in the range of about 27.5-28.5 grams, a thread windings layer, and a cover with an outer surface having a shore D hardness in the range of about 63-69. However, Kakiuchi et al. teaches a golf ball comprising the aforementioned limitations (see fig.1). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the golf ball of Kuttappa et al., in view of Kakiuchi et al., such that it would provide the golf ball of Kuttappa et al. with the concept of the aforementioned limitations for the purpose of enhancing the performance of the golf ball without compromising shot-making feel of the ball.

Claim 33 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-22 of U.S. Patent No. 6,383,093 B1 to Kuttappa et al. in view of Kakiuchi et al. as applied to claim 30 above, and further in view of U.S. Patent No. 5,018,741 to Stiefel et al.

Kuttappa et al., as modified, discloses the claimed invention except for the plurality of dimples including a first, second, and third set of dimples having a diameter in the range of 0.150-0.160, 0.140-0.150, and 0.135-0.145, respectively. However, Stiefel et al. teaches a golf ball comprising the aforementioned limitations (see fig. 6, and respective portions of the specification). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify

Art Unit: 3722

the golf ball of Kuttappa et al., as per the teachings of Stiefel et al., such that it would provide the golf ball of Kuttappa et al. with the concept of the aforementioned limitations for the purpose of enhancing the performance of the golf ball without compromising shot-making feel of the ball.

Response to Arguments

Applicant's arguments with respect to claims 1-14 and 26-34 have been considered but are moot in view of the new ground(s) of rejection.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ali Abdelwahed whose telephone number is (571) 272-4417. The examiner can normally be reached Monday through Friday from 10:00 A.M. to 6:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571) 272-4502.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the examiner or the examiner's supervisor.

AA
08/02/2005


BOYER D. ASHLEY
PRIMARY EXAMINER